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Turning Back

Undoing Watergate reforms

Americans in the mid-1970s winced through Watergate, the Lockheed Aircraft Corp. foreign bribery case, corporate indictments for illegal campaign contributions and seemingly endless scandals involving the FBI, CIA or IRS. On the theory that secrecy was the thread linking corruption, and full disclosure was the sword to cut it, Congress between 1974 and 1977 created the Federal Election Commission, broadened the Freedom of Information Act and toughened the ethics and disclosure laws for federal appointees. Corporations were compelled to record and disclose anything that might be construed as a bribe. The FBI and CIA were restricted, especially with respect to wiretaps. The only move toward greater secrecy was a restriction on Government access to taxpayer records, because President Nixon had used IRS audits and prosecutions to punish dissent.

The Reagan Administration may well be deciding that a little knowledge is a dangerous thing and a lot of knowledge is a very dangerous thing. Secrecy is back in favor—although it is now called “privacy.” Every major post-Watergate rule is under attack, with some justice, either as an unwarranted intrusion by Government or as an ill-advised restraint on Government’s pursuit of crime. Reformers concede that many criticisms are valid but argue for revision not repeal.

Among the laws most likely to change:

Freedom of Information Act. Passed by Congress in 1966 and amended in 1974, the law was intended to open Government records to citizens’ groups, journalists and scholars. Instead, many more requests come either from prisoners trying to find out which informant might have fingered them for prosecution or from businesses, often practicing an entirely legal form of industrial espionage. Companies can file requests for trade information through intermediaries, so that rivals are unable to discover who is checking on them. The Justice Department also claims that the law is easily misused by foreign spies. In 1974 Congress estimated that it would cost \$100,000 annually to enforce FOIA; two years ago, a survey indicated the law costs about \$45 million. The shape of any Reagan bill is unclear. Attorney General William French Smith says he might favor priority handling of requests from journalists and scholars.

Ethics in Government Act. The act, which included provision for special prosecutors, was created to prevent another Watergate cover-up by a politically tainted Justice Department. It led to long, sensationalized and fruitless investigations of alleged cocaine use by two of Carter’s White House aides, Hamilton Jordan and Tim Kraft. Under the act, the Attorney General must ask a special court unit to name a prosecutor whenever there is “specific information” lodged against any of some 240 top officials, whether or not it meets the legal standard of “probable cause” to believe a crime has been committed. Attorney General Smith argues that the act is unconstitutional and wants to abolish it; Benjamin Civiletti, Attorney General under Carter, says the law’s scope should be reduced.

Foreign Corrupt Practices Act. Special Trade Representative William Brock testified before a Senate committee last week that disclosure of corporate slush funds for foreign payments was hampering American business abroad. He could not cite examples, however, and conceded that U.S. trade grew at twice the world rate in the two years after the 1977 act passed. Reagan supports Republican Senator John Chafee’s bill to “clarify” (meaning narrow) the definition of bribery—and to remove the Securities and Exchange Commission, the primary overseer of the act, from enforcement.

Congress may resist a range of other proposed post-Watergate changes: opening IRS files to antidrug investigators, and using more IRS agents to track criminals; diminishing or abolishing the oversight role of the Federal Election Commission; easing disclosure requirements for Cabinet and agency appointees and perhaps the restrictions on their doing business with their former agencies after they leave. Although Congress has less direct control over guidelines on CIA spying, it joined in the recent uproar against such new CIA licenses as domestic surveillance of U.S. citizens. In the end, though, the White House seems likely to nudge Government part of the way back to pre-Watergate morality—albeit with a far more watchful Congress, press and public. ■